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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,573	01/07/2002	James Brown	2001JB01	1769

7590

01/27/2004

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,573

Applicant(s)

BROWN, JAMES

Examiner

Naschica S Morrison

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2003 and 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8,9 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,8,9 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11/6/03 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This is the third Office Action for serial number 10/039,573, Tool Hanger, filed on January 7, 2002. Claims 1-3, 8, 9, and 14 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/6/03 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 8, 9 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claims 1 and 9, line 7 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a hand-held tool" in claims 1 and 9, line 7 is intended to refer to "a hand-held tool" in claims 1 and 9, line 1.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 8, 9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,447,030 to Nattel. Regarding claims 1, 2, 8, 9 and 14, Nattel discloses a tool hanger (see marked copy attached to previous Office action) in combination with a hand-held tool (40; tool defined as "something used in performing an operation" in Merriam-Webster's Dictionary) comprising: a horizontally oriented portion (18); a vertically oriented portion (12) joined to the horizontally oriented portion (18) at first ends thereof at a bend (at 20); and two or more non-axially aligned apertures (1a, 1b, 2a, 2b, 2c) located at a second end of the horizontally oriented portion (18), wherein two apertures are non-circular (1a, 1b) and wherein one aperture (2b) is located in the center of the second end, and wherein the apertures are dimensioned and spaced to permit secure connection to the tool in two or more locations.

Claims 1, 2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,810,232 to Meurer et al. (Meurer). Regarding claims 1, 2 and 8, Meurer discloses a tool hanger (Fig. 2) in combination with a hand-held tool (100) comprising: a horizontally oriented portion (12; see Fig. 6); a vertically oriented portion (14) joined to the horizontally oriented portion (12) at first ends thereof at a bend; and two non-axially aligned apertures (16, 20) located at a second end of the horizontally oriented portion (12), and wherein one aperture (16) is located in the center (widthwise) of the second end and the second end may become a replacement of part of the tool's housing, and

wherein the apertures are dimensioned and spaced to permit secure connection to the hand-held tool (100) in two locations.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meurer. With regards to claim 3, Meurer discloses the hanger as applied above, but does not disclose any of the apertures (16, 20) being threaded. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apertures to be threaded because one would have been motivated to provide a means for securing alternative fasteners, such as screws or bolts, to the bracket since nails, screws, and bolts are well known for their use in the fastening art and the selection of any of these known equivalents and their complementary aperture to attach the bracket to an object would be within the level of ordinary skill in the art. With regards to claims 9 and 14, Meurer does not teach any of the apertures (16, 20) being non-circular. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the apertures to be of various shapes including non-circular (i.e. elliptical, etc.) since it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).


Response to Arguments

Applicant's arguments with respect to claims 1-3, 8, 9, and 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
1/20/04


ANITA KING
PRIMARY EXAMINER